

COUNTY OF LOS ANGELES
SHERIFF'S DEPARTMENT

DATE: October 15, 2002

OFFICE CORRESPONDENCE

FILE:

FROM: RICHARD L. CASTRO, COMMANDER
TRAINING DIVISIONTO: ROBERT L. BINKLEY, CAPTAIN
INDUSTRY STATIONSUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS
HIT SHOOTING, OCTOBER 6, 2001, IAB REVIEW #2047138**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on October 6, 2001.

The Committee met on October 12, 2002, and consisted of myself, Commander David Betkey (Commander of the Department) and Commander William McSweeney (Office of the UnderSheriff). The Committee determined that the use of force by Deputies Sean Heieck # [REDACTED] and Raye Morales # [REDACTED] was within Department policy. **Please advise the deputies of this finding.**

The Committee further directed the Unit Commander conduct a debriefing with the involved personnel with an emphasis on "soft clothes" uniform and identification procedures.

RLC:KRK:kk

TABLE OF CONTENTS

OFFICER INVOLVED SHOOTING FORM

INVESTIGATIVE SUMMARY

EXHIBITS A THROUGH L

- A** Homicide Bureau's completed report of the shooting incident under File Number 001-15399-1462-055
- B** Three (3) video tapes of interviews conducted by Homicide investigators
- C** Photographs of "Miss Kitty's" driveway
- D** Photographs of "Miss Kitty's" entrance and parking lot
- E** Photographs of the emergency exit of "Miss Kitty's"
- F** Photographs of the westbound view of Valley Boulevard
- G** Photographs of the 76 Gas Station
- H** Photographs of the Chevron Station and damage to signs
- I** Photographs of the position undercover van
- J** Photographs of the position of the suspect
- K** Photographs of suspect's gun
- L** Photographs of the bullet holes in the van

MISCELLANEOUS DOCUMENTS

Industry Station In-Service for E.M. Shift 10-06-01
Training Records for all deputies involved
Range Qualification records for all deputies involved
Work History on Involved Deputies

Los Angeles County Sheriff's Department Officer Involved Shooting

Page 1 of 5

Report Date: 10-06-01		Bureau/Station/Facility: INDUSTRY STATION		Admin. Invest.? <input type="checkbox"/> Hit? <input checked="" type="checkbox"/>	
Incident Information					
URN: 001-15399-1462-055		Date: 10-06-01		Time: 0021	
City or Station: INDUSTRY STATION		Nature of Incident: DEPUTIES WERE CONFRONTED BY A SUSPECT ARMED WITH A GUN. THE SUSPECT POINTED THE GUN AT THE DEPUTIES AND THEY SHOT THE SUSPECT.			
Location: 13107 VALLEY BOULEVARD INDUSTRY, CA. 91746					
Location Type (circle one or more): Backyard Beach <u>Business</u> Freeway Industrial Park Parking Lot Residence Rural School <u>Street</u> Other: _____	Lighting (circle only one): Darkness Daylight Other <u>Street Lights</u>	Incident Type (circle one or more): Accidental <u>Armed Person</u> <u>Fleeing Suspect</u> Foot Pursuit Gun Take Away Moving Vehicle Sniper/Ambush Stallie Struggle Involved Traffic Stop Unarmed Person Unintentional Vehicle Pursuit Warrant Service Other: _____		Initiated by (circle only one): Arrest Warrant Call <u>Observation</u> One Person Unit Other Search Warrant Two Person Unit	
	Weather (circle only one): <u>Clear</u> Cloudy Fog Rain				
	Distance: 6-8 feet				
Total # of Shots Fired by Deputy 14	Total # of Shots Fired by Suspect 0			Aero Unit? <input type="checkbox"/>	Canine Unit? <input type="checkbox"/>
Employee Witnesses					
Employee #	Last Name	First Name	M.I.	ShiftTime (circle only one): EM <u>PM</u> Day	ShiftType (circle only one): <u>Regular</u> Overtime Off Duty
Employee #	Last Name	First Name	M.I.	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty
Employee #	Last Name	First Name	M.I.	ShiftTime (circle only one): EM PM Day	ShiftType (circle only one): Regular Overtime Off Duty
Non-Employee Witnesses					
Last Name		First Name		M.I.	
Street Address		City	Zip Code	Work Ph	Home Ph
Last Name		First Name		M.I.	
Street Address		City	Zip Code	Work Ph	Home Ph
Last Name		First Name		M.I.	
Street Address		City	Zip Code	Work Ph	Home Ph
Supervisors					
Employee #	Last Name	First Name	M.I.	(circle one or more): <u>On Duty</u> <u>Present during shooting</u> Witness to shooting Involved in shooting	
Employee #	Last Name	First Name	M.I.	(circle one or more): <u>On Duty</u> <u>Present during shooting</u> Witness to shooting Involved in shooting	
Watch Sergeant					
Employee #	Last Name	First Name	M.I.		
		GRACIA		RUBEN	
Watch Commander					
Employee #	Last Name	First Name	M.I.		
		JACKSON		DAN	

PSTD Use Only	
SH #	SH2047138

Rollout Information							
Arrival Date	10-06-01	Arrival Time	0300 HRS	Date Submitted	04-03-02	Date of Recommendation	
Employee #		Last Name	HINES	First Name	WILLIAM	M.I.	L.
Employee #		Last Name	REYES	First Name	HENRY	M.I.	J.
Employee #		Last Name	MANNIS	First Name	KARYN	M.I.	J.
Shooting / Force Information							

Shooting / Force Information

Method

(AW)	Anwer	(OV)	Other Weapon: Vehicle
(BC)	Baton.(Control)	(OB)	Other Weapon: Blunt Object
(BI)	Baton.(Impact)	(OO)	Other Weapon: Other
(BF)	Bodily Fluids	(PK)	Personal Weapon: Feet/Leg: (Kick)
(CN)	Canine	(PS)	Personal Weapon: Feet/Leg: (Sweep)
(CR)	Carotid Restraint	(PH)	Personal Weapon (Hand/Arm)
(CH)	Choke Hold	(PP)	Personal Weapon (Push)
(CT)	Control Holds (Control Techniques)	(PO)	Personal Weapon (Other)
(TT)	Control Holds (Team Takedown)	(RS)	Resistance
(TD)	Control Holds.(Takedown)	(CN)	Restraint Device (Capture Net)
(CE)	Chemical	(RH)	Restraint Device (Handcuffs)
(OC)	Chemical Agents (OC Spray)	(HB)	Restraint Device:Hobble (Legs Only)
(TG)	Chemical Agents (Tear Gas)	(TP)	Restraint Device:Hobble (TARP)
(EX)	Explosives	(RE)	Restraint Device: REACT Belt
(FH)	Firearm (Handgun)	(SP)	Sap
(FR)	Firearm (Rifle)	(SH)	Shield
(FS)	Firearm (Shotgun)	(SG)	37mm Stinger
(FO)	Firearm (Other)	(SB)	Sting Ball
(FB)	Flashbang	(ST)	Stun Bag
(FL)	Flashlight	(TR)	Taser
(OE)	Other Weapon: Edged	(UC)	Uncooperative

Type of Injury

(AB)	Abrasion
(BR)	Bruise
(BU)	Burn
(CP)	Complaint of Pain
(CO)	Concussion
(DH)	Death
(DI)	Dislocation
(DB)	Dog Bite
(FR)	Fractures
(GS)	Gunshot
(HB)	Human Bite
(LC)	Lacerations
(ND)	Nerve Damage
(OD)	Organ Damage
(PA)	Paralysis
(PW)	Puncture Wound
(SD)	Soft Tissue Damage
(ST)	Sprain/Twists
(UN)	Unconscious
(RM)	Refused Med Treatment
(NN)	NONE

Body Part Injured

(AD)	Abdomen
(AK)	Ankle
(AR)	Arm
(BK)	Back
(BT)	Buttocks
(CH)	Chest
(EL)	Elbow
(FA)	Face
(FE)	Feet
(FI)	Fingers
(GE)	Genitals
(GR)	Groin
(HD)	Hand
(HE)	Head
(HI)	Hip
(IN)	Internal
(KN)	Knees
(LE)	Leg
(NK)	Neck
(SH)	Shoulder
(WR)	Wrist

Brand

(AK)	AK-47	(IV)	Iver Johnson	(RI)	RGI
(BN)	Benelli	(JE)	Jennings	(RO)	Rossi
(BR)	Beretta	(LO)	Lorcin	(SW)	Smith & Wesson
(BW)	Browning	(LU)	Luger	(SR)	Sturm Ruger
(CH)	Charter Arms	(MA)	Marlin	(ST)	Sterling
(CO)	Colt	(MO)	Mossberg	(TA)	Taurus
(DA)	Davis Industries	(NC)	NCI aka SKS	(WE)	Weatherby
(GL)	Glock	(NA)	North American	(WN)	Winchester
(HA)	Harrington & Richardson	(NO)	Norinco	(US)	US Government
(HI)	Hi Standard	(RA)	Raven	(YY)	Handmade (Inmate)
(HK)	H & K	(RM)	Remington	(XX)	Homemade (Non-Inmate)
(IT)	Ithica	(RG)	RG	(ZZ)	Other Brand

Caliber

(9)	9 mm	(24)	.243 caliber	(41)	.410 gauge
(10)	10 mm	(25)	.25 caliber	(44)	.44 caliber
(12)	12 gauge	(30)	.308 caliber	(45)	.45 caliber
(20)	20 gauge	(35)	.357 caliber	(50)	50 mm
(21)	.22-250	(38)	30-80 caliber	(SL)	Slug
(22)	.22 caliber	(38)	.38 caliber	(WW)	Other caliber
(23)	.223 caliber	(40)	.40 caliber		

FORCE APPLIED (one code per block)[illegible]

Officer Involved Shooting Involved Employee Information

URN: 001-15399-1462-055

Page 3 of 5

Involved Employee

E 1	Employee #	Last Name HEIECK	First Name SEAN	M.I. A.
Sex: M Race: W		Rank DEPUTY	Unit Assignment: INDUSTRY STATION	
Work Assignment (Unit #, Module, etc.): 143E				
ShiftTime (circle only one): EM <input type="radio"/> PM Day		ShiftType (circle only one): Regular Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>
Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>
Hrs of sleep prior to shooting: 8-9		Duty Time (hrs):		Substance Used:
Age: Height: 5'10" Weight: 210		Clothing (circle only one): <input checked="" type="radio"/> Plain Clothes w/ Vest <input type="radio"/> Raid Jacket w/ Vest <input type="radio"/> Plain Clothes no Vest <input type="radio"/> Uniform no Vest <input type="radio"/> Raid Jacket no Vest <input type="radio"/> Uniform w/ Vest		Other Factors:
Range Qualification Date:		PPC Qualification Date:		Laser Training Date:
Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>	Certification Unit:	Prior Shootings? <input type="checkbox"/> Number of Prior Shootings: <input type="checkbox"/>
Field Training Officer Emp #		Last Name		First Name M.I.
Field Training Officer Emp #		Last Name		First Name M.I.

E 2	Employee #	Last Name MORALES	First Name RAYE	M.I. D.
Sex: M Race: H		Rank DEPUTY	Unit Assignment: INDUSTRY STATION	
Work Assignment (Unit #, Module, etc.): 143E				
ShiftTime (circle only one): EM <input type="radio"/> PM Day		ShiftType (circle only one): Regular Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>
Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>
Hrs of sleep prior to shooting: 8		Duty Time (hrs):		Substance Used:
Age: Height: 5'10" Weight: 205		Clothing (circle only one): <input checked="" type="radio"/> Plain Clothes w/ Vest <input type="radio"/> Raid Jacket w/ Vest <input type="radio"/> Plain Clothes no Vest <input type="radio"/> Uniform no Vest <input type="radio"/> Raid Jacket no Vest <input type="radio"/> Uniform w/ Vest		Other Factors:
Range Qualification Date:		PPC Qualification Date:		Laser Training Date:
Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>	Certification Unit:	Prior Shootings? <input type="checkbox"/> Number of Prior Shootings: <input type="checkbox"/>
Field Training Officer Emp #		Last Name		First Name M.I.
Field Training Officer Emp #		Last Name		First Name M.I.

E	Employee #	Last Name	First Name	M.I.
Sex: Race:		Rank	Unit Assignment:	
Work Assignment (Unit #, Module, etc.):				
ShiftTime (circle only one): EM <input type="radio"/> PM Day		ShiftType (circle only one): Regular Overtime Off Duty		Intoxication/Drug Usage? <input type="checkbox"/>
Hospital Admission? <input type="checkbox"/>		Hospital Name:		Coroner Case? <input type="checkbox"/>
Hrs of sleep prior to shooting:		Duty Time (hrs):		Substance Used:
Age: Height: Weight:		Clothing (circle only one): <input type="radio"/> Plain Clothes w/ Vest <input type="radio"/> Raid Jacket w/ Vest <input type="radio"/> Plain Clothes no Vest <input type="radio"/> Uniform no Vest <input type="radio"/> Raid Jacket no Vest <input type="radio"/> Uniform w/ Vest		Other Factors:
Range Qualification Date:		PPC Qualification Date:		Laser Training Date:
Certified with Weapon Used? <input type="checkbox"/>		Patrol Certification? <input type="checkbox"/>	Certification Unit:	Prior Shootings? <input type="checkbox"/> Number of Prior Shootings: <input type="checkbox"/>
Field Training Officer Emp #		Last Name		First Name M.I.
Field Training Officer Emp #		Last Name		First Name M.I.

Officer Involved Shooting Suspect Information

URN: 001-15399-1462-055

Page 4 of 5

Suspect Information

S 1	Last Name GUILLEN		First Name ERNEST		M.I.
	AKA Last Name		First Name		M.I.
Sex: M Race: H		Street Address: [REDACTED]		City: [REDACTED]	State & Zip Code: [REDACTED]
Work Phone:		Home Phone:	Social Security #: [REDACTED]	Driver's License #: [REDACTED]	
Age: 29 D.O.B.: 09-11-72		Height: 5'7" Weight: 220	FBI #: [REDACTED]	CII #: [REDACTED]	
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input checked="" type="checkbox"/>		Coroner Case # 2001-07247		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input checked="" type="checkbox"/>		Apprehended? <input checked="" type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? [REDACTED]
Vehicle Make		Model:		Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
Sex: Race:		Street Address:		City	State & Zip Code:
Work Phone:		Home Phone:	Social Security #:	Driver's License #:	
Age: D.O.B.:		Height: Weight:	FBI #	CII #	
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input type="checkbox"/>		Coroner Case #		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input type="checkbox"/>		Apprehended? <input type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
Sex: Race:		Street Address:		City	State & Zip Code:
Work Phone:		Home Phone:	Social Security #:	Driver's License #:	
Age: D.O.B.:		Height: Weight:	FBI #	CII #	
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input type="checkbox"/>		Coroner Case #		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input type="checkbox"/>		Apprehended? <input type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	
S	Last Name		First Name		M.I.
	AKA Last Name		First Name		M.I.
Sex: Race:		Street Address:		City	State & Zip Code:
Work Phone:		Home Phone:	Social Security #:	Driver's License #:	
Age: D.O.B.:		Height: Weight:	FBI #	CII #	
Booking #		Primary Charge:		Secondary Charge:	
Coroner Case? <input type="checkbox"/>		Coroner Case #		Intoxication/Drug Usage? <input type="checkbox"/>	Substance Used:
Armed? <input type="checkbox"/>		Apprehended? <input type="checkbox"/>		Mental Illness? <input type="checkbox"/>	Criminal History? <input type="checkbox"/>
Vehicle Make		Model:		Year:	

Los Angeles County Sheriff's Department

Page 5 of 5

Non-Employee Witnesses

[illegible]



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
CURT LIVESAY • Chief Deputy District Attorney
PETER BOZANICH • Assistant District Attorney

DAVID H. GUTHMAN • Director

June 14, 2002

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Commerce, California 90040

Dear Captain Merriman:

Re: J.S.I.D. File # 01-0968
L.A.S.D. File # 001-15399-1462-055

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the October 6, 2001, fatal shooting of Ernest Guillen by Los Angeles County Sheriff's Deputies Sean Heieck and Raye David Morales. We have concluded that Deputies Heieck and Morales acted lawfully in self-defense and the defense of others.

The following analysis is based on Los Angeles County Sheriff's Department Homicide Bureau reports of the incident totaling 188 pages, an examination of the shooting scene and autopsy photographs related to the shooting, the statements of witnesses at the scene, and our own Bureau of Investigation reports. Deputies Heieck and Morales both gave voluntary statements.

The District Attorney's Command Center was notified of this incident on October 6, 2001 at 1:30 a.m. Assistant Head Deputy John Gilligan and District Attorney Senior Investigator [REDACTED] responded immediately to the scene at 13107 Valley Boulevard, in the City of Industry. We were given a briefing and a "walk-through" of the scene by Los Angeles Sheriff's Detective Chris Brackpool.

FACTUAL ANALYSIS

On Saturday, October 6, 2001, Deputies Morales and Heieck were part of a team of nineteen deputies, two sergeants and a lieutenant who were working a gang suppression detail in the City of Industry. At approximately 1:00 a.m., Morales and Heieck were in

the west parking lot of Miss Kitty's bar on Valley Boulevard in the City of Industry. They were in an unmarked observation van and were wearing plain clothes.

The two deputies observed members of the Mongols motorcycle gang loitering outside the club. They made radio contact with other members of their team who then began moving towards the group of Mongols. One of the individuals ran into the bar when deputies approached him. Two other deputies followed the suspect into the bar.

Shortly after the deputies entered the building, Heieck and Morales observed a fire door on the side of the building open. A young Hispanic male, later identified as Ernest Guillen, came out the door and ran first south and then north on Valley Boulevard.

The two deputies believed that he was running because he was involved in criminal activity. They followed him in their van, identified themselves as deputies and ordered him to stop. Guillen ignored the orders of the deputies.

As Guillen ran in front of Millers Liquor at 13107 Valley Boulevard, he turned and pointed what appeared to be a semi-automatic pistol directly at the deputies. At that point, the van stopped and both deputies fired their 9-millimeter Beretta pistols at him. Guillen was struck with several rounds and fell to the ground fatally wounded.

Paramedics arrived a few minutes later and pronounced Guillen dead at the scene. A Walther .380 semi-automatic pistol was found next to his body. Guillen was identified by witnesses inside Miss Kitty's. Guillen was a Lomas gang member with two prior prison commitments for robbery and an outstanding arrest warrant for murder in case number GA040566.

[REDACTED]
[REDACTED]
[REDACTED] Methamphetamine and a stolen Ruger 9-millimeter pistol were found in Guillen's vehicle.

An autopsy was performed on October 7, 2001 by Deputy Medical Examiner Raffia Djabourian. The cause of death was determined to be multiple gunshot wounds. Guillen was struck by eleven rounds, four of which caused rapidly fatal wounds. There was no soot or stippling at any of the entry wounds. The 9-millimeter Berettas carried by Heieck and Morales were collected. Based on the rounds remaining in each weapon and the casings and projectiles recovered at the scene, it appears that Deputy Heieck fired ten rounds and Deputy Morales fired two rounds.

Civilian witness [REDACTED] was interviewed. She is a [REDACTED] at Miss Kittys. [REDACTED] said that at the time the deputies were coming into Miss Kitty's, Guillen, who she knew as "Listo", approached her and said, "I gotta leave, I gotta get out of here!" [REDACTED] said she helped him by taking him to an emergency exit on the west side of the building. She said she opened the door and Guillen ran out. She confirmed that "Listo" was an admitted Lomas gang member

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of others if the person claiming the right to use self-defense actually and reasonably believed (1) that he or she or the person that he or she was defending, was in imminent danger of death or great bodily injury; and (2) that it was necessary under the circumstances to use deadly force to avoid such death or great bodily injury.

Based on what they observed, Deputies Heieck and Morales were correct in attempting to detain Guillen as he fled from the deputies who were entering Miss Kitty's. What they did not know was that they were attempting to detain a potential third strike candidate who had an outstanding murder warrant, a gun on his person, and another gun and illegal drugs in his car.

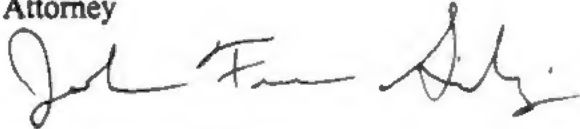
Both deputies' actions were clearly justifiable under the law. When Heieck and Morales fired, it was in response to Guillen pointing a semi-automatic pistol at them. The deputies had already identified themselves as police officers and ordered Guillen to stop. The deputies had no alternatives to the use of deadly force at that time.

From the information presented to this office by the Los Angeles County Sheriff's Department and our own investigation, the evidence establishes that Deputies Heieck and Morales acted reasonably and lawfully. Based on this conclusion, we are closing our file and will take no further action in this matter.

Very truly Yours,

STEVE COOLEY
District Attorney

By



JOHN FRANCIS GILLIGAN
Assistant Head Deputy
(213) 974-7435

c: Deputy Sean Heieck # [REDACTED]
Deputy Raye David Morales # [REDACTED]